

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
CTIA Petitions for Declaratory Ruling on	)	
Wireline-Wireless Porting Issues	)	
	)	
	)	
	)	

To: The Commission

**REPLY COMMENTS OF WESTERN WIRELESS CORPORATION  
ON INTERMODAL PORTING ISSUES**

Western Wireless Corporation (“Western Wireless”) hereby replies to the Comments filed in the Commission’s Further Notice of Proposed Rulemaking initiated as part of the *Intermodal Order*.<sup>1</sup> In these Reply Comments, Western Wireless establishes that: (i) porting between wireless and wireline carriers is critical for the development of full intermodal competition, which should not be constrained by artificial, anti-consumer telephone company rating and routing prerogatives; (ii) the development of intermodal competition is dependent upon wireline carriers properly rating and routing calls to ported wireline-to-wireless telephone numbers; and (iii) a minimum set of requirements must be adopted to facilitate intermodal porting, including establishing porting intervals and a standardized porting process.

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<sup>1</sup> *Telephone Number Portability, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 23697 (2003) (“*Intermodal Order*”).

**I. PORTING BETWEEN WIRELESS AND WIRELINE CARRIERS IS CRITICAL FOR THE DEVELOPMENT OF FULL INTERMODAL COMPETITION, WHICH SHOULD NOT BE CONSTRAINED BY ARTIFICIAL, ANTI-CONSUMER TELEPHONE COMPANY RATE CENTERS**

One of the bases for the Commission's decision to impose the local number portability ("LNP") obligation on wireless carriers was that consumers increasingly view wireless service as a substitute for wireline service. In denying the petition for permanent forbearance from the CMRS LNP rules, the Commission noted that it had previously concluded that pricing trends in the CMRS market suggest that "there would be a greater likelihood that consumers would view their wireless phones as a potential substitute for their wireline phones and thus the ability of consumers to port their numbers was likely to become an increasingly important factor in consumer choice."<sup>2</sup>

The Commission also concluded that "an increasing number of wireless carriers offer service plans designed to compete directly with wireline local telephone service."<sup>3</sup> Indeed, Western Wireless has sought in many of its markets to offer service that competes directly with wireline local service. In order to compete more effectively, Western Wireless has obtained eligible telecommunications carrier ("ETC") status for purposes of universal service support, but without LNP, a significant barrier will remain to full and vibrant competition between wireline and wireless carriers.

Clearly, limiting a wireline carrier's porting obligations would undermine the Commission's stated goal of fostering intermodal competition and would also have a direct and

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<sup>2</sup> *Verizon Wireless's Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation*, Memorandum Opinion and Order, 17 FCC Rcd. 14972 (2002) ("*Verizon Wireless Forbearance Order*").

<sup>3</sup> *Id.*

adverse impact on emerging competition in rural America. Consumers in rural areas stand to gain the most from LNP, but only if the Commission remains true to its commitment to removing barriers to intermodal competition.

Moreover, virtually all wireline carriers' initial comments in this proceeding reflect a lack of interest in further Commission action to address the "disparity" in wireline carriers' ability to accept ports from wireless carriers as a result of rate center constraints.<sup>4</sup> Given that the Commission sought further comment on this issue in order to address wireline carriers' concerns,<sup>5</sup> in the absence of strong demand from wireline commenters, the FCC need not concern itself further with this issue.

If the FCC feels compelled to address this issue, however, Nextel is correct that "wireline carriers – to the extent they wish to serve the customer – should be prepared to absorb the cost of allowing the customer with a wireless ported number to maintain the same or similar local calling area that the customer had with the wireless service provider,"<sup>6</sup> such as by using foreign exchange ("FX") service. Wireless carriers currently pay high costs for radio spectrum, tower siting and leases, transmission facilities, transport, and other facilities in order to provide mobility. This mobility, in turn, enables wireless carriers to accept number ports over a larger area than wireline carriers. There is no reason wireline carriers, too, should not have to pay the costs associated with obtaining a larger porting scope, should they choose to do so.

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<sup>4</sup> See, e.g., BellSouth comments at 3-4; Centennial comments at 4; Qwest comments at 2-3; SBC comments at 3-11; SDTA comments at 1-5; Sprint comments at 10-15; TSTC comments at 2; USTA comments at 4-5; Verizon comments at 2-9; . *But see* NTCA comments at 4 (re-arguing that intermodal LNP should be stayed until the rate center issue is resolved); Oklahoma Rural Telephone Companies comments at 3-5 (re-arguing that wireless carriers should be required to establish direct interconnection with wireline carriers in order to port).

<sup>5</sup> See *Intermodal Order* at ¶ 41.

<sup>6</sup> Nextel comments at 4.

The lack of support for Commission action to address the rate center “disparity” illustrates its irrelevance to the actual deployment of intermodal LNP. As the remainder of these comments demonstrate, however, there remain other implementation issues that *are* truly important to the successful deployment of intermodal LNP – which will (and already is) playing a pivotal role in the development of true, intermodal local competition; these other issues are more productive targets for Commission resources.

Increasingly, for example, wireline carriers are attempting to thwart the Commission’s LNP mandates by turning to state commissions to essentially reverse their intermodal porting obligations. In response to the state commission initiated proceedings, Western Wireless and other competitive carriers are strongly opposing the ILECs’ requests under Section 251(f) of the Communications Act of 1934, as amended, to suspend their LNP obligations. To assist state commissions in their consideration of these ILEC LNP suspension requests, the Commission should make clear that the ILECs have an affirmative obligation to implement LNP, regardless of any technical or financial hurdles that may exist, but which can be overcome. Wireless carriers have had to address and resolve these same or similar hurdles, and therefore ILECs should not be afforded “special” treatment in meeting their LNP obligations.

As a case in point, Great Plains Communications, Inc. recently filed a petition with the Nebraska Public Service Commission to suspend its LNP obligations. In its petition, Great Plains makes numerous unsubstantiated claims of financial and technical hardships, but also alleges that the FCC has failed to sufficiently define its LNP obligations, making implementation technically infeasible:

However, such guidance is currently not available and it is uncertain when the clarifying FCC orders may be forthcoming. The Order fails to resolve issues relating to the routing of calls to ported numbers in those cases in which no direct connections exist between carriers. The Order also leaves unresolved the porting interval. Further, the Order lacks any discussion regarding the economic considerations that cause deployment of wireline-to-wireless LNP to be substantially more burdensome for rural telephone companies such

as Great Plains and its subscribers as compared to deployment by non-rural telephone companies. Absent a final resolution by the FCC regarding call routing to ported numbers for which a direct connection does not exist between carriers, Great Plains contends that it is technically infeasible to complete such calls on a local, seven-digit dialed basis.<sup>7</sup>

This suspension requests comes on the heels of the Commission providing the 2% ILECs with temporary relief from their November 24, 2003 LNP obligations.<sup>8</sup> It is time for the Commission to be unwavering in its commitment to intermodal porting by reaffirming the ILECs' LNP obligations and making clear that no further relief should be granted, absent the most compelling of unique circumstances. As the Michigan Public Service Commission recently recognized, the public interest is served by requiring the ILECs to implement intermodal porting as required by the Commission:<sup>9</sup>

The Commission concludes that an extension of the porting deadline until May 24, 2004 would not serve the public interest because it unnecessarily delays the LNP benefits to the public. A further delay of LNP obligations would unnecessarily harm competition and consumers, whereas portability will promote competition by allowing consumers to move to carriers that would better serve their needs without having to give up their telephone numbers. Thus, we find that the public interest would be served by LNP implementation consistent with FCC requirements.

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<sup>7</sup> *Application of Great Plains Communications, Inc. For Suspension or Modification of the Federal Communications Commission Requirement to Implement Wireline-Wireless Number Portability Pursuant to 47 U.S.C. §251(f)(2)*, Application No. C-3096, (filed Neb. Pub. Service Comm'n, Jan. 26, 2004) at ¶ 6.

<sup>8</sup> *Telephone Number Portability*, Order, FCC 04-12 (rel. Jan. 16, 2004) ("2% Waiver Order").

<sup>9</sup> *Petition of CenturyTel of Michigan, Inc. and CenturyTel Midwest-Michigan, Inc., for Temporary Suspension of Wireline-to-Wireless Number Portability Obligations Pursuant to § 251(f)(2) of the Federal Telecommunications Act of 1996, as amended*, Opinion and Order, Case No. U-13729, (Mich. Pub. Service Comm'n, Dec. 9, 2003).

Comments in this proceeding present no compelling or rational argument for the Commission limit the LNP obligations of wireline carriers due to alleged constraints on their ability to properly rate and route calls to wireline-to-wireless ported numbers.<sup>10</sup>

## **II. THE DEVELOPMENT OF INTERMODAL COMPETITION IS DEPENDENT UPON WIRELINE CARRIERS PROPERLY RATING AND ROUTING CALLS TO PORTED TELEPHONE NUMBERS**

The *Intermodal Order* laid an excellent foundation for clarifying carriers' rights and obligations with respect to intermodal porting. The Commission should issue further clarification, however, in order to ensure that portability actually goes into effect as scheduled on May 24, 2004 – less than four months from now – and to reduce negative consumer experiences.

The initial comments in this proceeding demonstrate that several incumbent local exchange carriers (“ILECs”) and their associations continue to reject some of the rule clarifications issued in the *Intermodal Order*. For example, the NTCA argues that there are “numerous unresolved issues surrounding wireline to wireless number portability,” such as ILECs’ obligations to transport their own traffic to wireless carriers’ switches and ILECs’ rights to collect access charges.<sup>11</sup> Similarly, the Oklahoma Rural Telephone Companies argue that the “Commission should recognize that porting local telephone numbers triggers the interconnection

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<sup>10</sup> See, e.g., BellSouth comments at 3-4; Centennial comments at 4; Qwest comments at 2-3; SBC comments at 3-11; SDTA comments at 1-5; Sprint comments at 10-15; TSTC comments at 2; USTA comments at 4-5; Verizon comments at 2-9; . *But see* NTCA comments at 4 (re-arguing that intermodal LNP should be stayed until the rate center issue is resolved); Oklahoma Rural Telephone Companies comments at 3-5 (re-arguing that wireless carriers should be required to establish direct interconnection with wireline carriers in order to port).

<sup>11</sup> NTCA comments at 4.

obligations under the Act” requiring CMRS carriers to enter into interconnection agreements,<sup>12</sup> a position the Commission specifically rejected in the *Intermodal Order*.<sup>13</sup>

In fact, networks already exist to support the exchange of local traffic throughout a LATA. The D.C. Circuit recently affirmed CMRS carriers’ statutory right to use a single point of interconnection per LATA.<sup>14</sup> And Western Wireless has participated in interconnection proceedings before state commissions that have affirmed this obligation.<sup>15</sup> Indeed, there is no technical limitation that prevents an ILEC from delivering its traffic to a CMRS carrier’s POI within the LATA, and CMRS, CLEC, and many ILEC networks already are set up to do so. In many cases this can be accomplished using the same direct or third-party tandem trunk groups through which ILECs and CMRS carriers exchange traffic today. More fundamentally, however, it should not be forgotten that LECs – and only LECs – are squarely obligated by *statute* to provide LNP.<sup>16</sup> The Commission imposed the LNP obligation on CMRS carriers pursuant to other, ancillary authority. The Commission has been very firm in insisting that CMRS carriers

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<sup>12</sup> Oklahoma Rural Tel. Cos. comments at 4-5.

<sup>13</sup> *Intermodal Order* at ¶ 34.

<sup>14</sup> *Mountain Communications v. FCC*, Case No. 02-1255 (D.C. Cir. Jan. 16, 2004), slip op. at 3.

<sup>15</sup> *Application of Southwestern Bell Wireless L.L.C. for Arbitration Under the Telecommunications Act of 1996, Application of W.W.C. License, L.L.C. for Arbitration Under the Telecommunications Act of 1996, et al.*, Cause Nos. PUD 200200149, PUD 200200151 et al., Order No. 466613 (Okla. Corp. Comm. Aug. 9, 2002). The Iowa Utilities Board reached the same conclusion in a matter to which Western Wireless was not a party. *Exchange of Transit Traffic*, Docket Nos. SPU-00-7, TF-00-275, (DRU-00-2), Order Denying Application for Rehearing (Iowa Util. Bd. May 3, 2002).

<sup>16</sup> 47 U.S.C. § 251(b)(2). See Dan Richman, *Callers Can’t Reach Cell Phone Users Who Switched Providers*, Seattle Post-Intelligencer (Jan. 17, 2004) ([http://seattlepi.nwsource.com/business/157035\\_centurytel17.html](http://seattlepi.nwsource.com/business/157035_centurytel17.html)).

comply with LNP. There is simply no justification for a lower level of steadfastness with regard to LECs, who (unlike CMRS carriers) are subject to a statutory obligation to provide LNP.

Western Wireless believes that its concern about ILECs' timely compliance with the LNP requirements is realistic. It is well-documented several ILECs already are not complying with the requirement established in the *LNP Second Report & Order* that they perform database dips and properly route their customers' calls to ported numbers.<sup>17</sup> As many LECs have admitted in this proceeding, until wireless carriers were required to implement LNP, many LECs, especially in rural areas, never had received a bona fide request ("BFR") to provide LNP – and thus have taken no steps to implement it. The lack of wireline LNP implementation prior to the implementation of the intermodal LNP requirement is a clear indication that intermodal porting is necessary to bring competition to the customers of small and rural LECs.

In order for the promise of LNP to be realized for all customers, it is critical that all LECs, including small LECs and those operating outside the largest 100 MSAs, be required to fully support LNP on May 24, 2004. Just as some ILECs have taken the opportunity of this further notice proceeding to re-litigate their clear obligations as clarified in the *Intermodal Order*, so too should the Commission take the opportunity to remove any question that might exist with respect to ILECs' intermodal LNP obligations. These include:

- ILECs' obligations as N-1 carriers to perform queries on calls to ported numbers and to deliver such calls to the correct carrier.
- ILECs' obligations to deliver their own customers' traffic to CMRS carriers' point of interconnection within the LATA.
- ILECs' obligation to port numbers to CMRS carriers, without regard to whether the CMRS carrier and the ILEC have entered into a direct interconnection agreement.

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<sup>17</sup> *Telephone Number Portability*, Second Report & Order, 12 FCC Rcd 12281, 12324-26 (1997).



These clarifications will help ensure that all customers – including customers in rural areas – receive the long-awaited benefits of portability and competition on May 24, 2004.

### **III. A MINIMUM SET OF REQUIREMENTS NEEDS TO BE ADOPTED TO FACILITATE INTERMODEL PORTING, INCLUDING THE ESTABLISHMENT OF MINIMAL PORTING INTERVALS AND A STANDARDIZED PORTING PROCESS**

Several commenters point out that the Commission has directed NANC to consider the intermodal porting interval, and urge the Commission to allow that process to run its course before taking further action.<sup>18</sup> Western Wireless is not opposed to NANC making its initial recommendation on intermodal porting intervals, but the Commission must then expeditiously adopt rules establishing the requirements of intermodal porting, such as a porting interval that more closely matches with that of wireless carriers. Whereas a four-day porting interval between wireline carriers may be necessary to facilitate the physical disconnection and reconnection of landlines, such a long time is not necessary for porting between wireline and wireless carriers. In fact, there is no reason why a porting interval of a few hours can not be established for intermodal porting.

In addition to establishing an intermodal porting interval consistent with the needs of consumers, a standardization of the porting process also needs to be implemented. As the last few months have demonstrated, few ILECs other than the largest carriers were providing LNP prior to CMRS carriers' LNP implementation. Historically, the relatively few ILECs that have deployed LNP have established fairly complex and idiosyncratic porting procedures. While it may have been manageable for CMRS carriers to respond to these unique processes for a limited universe of LECs, it will be impossible to do so for the literally hundreds of ILECs who are scheduled to deploy LNP in May 2004. As a result, the Commission should require all LECs to

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<sup>18</sup> See, e.g., Sprint comments at 4-6. See also SBC comments at 12.

comply with a single default standard for LNP process and forms. This standard should address validation criteria and forms and format.

With respect to validation criteria, the current LEC process requiring a Customer Service Record (“CSR”) is an unnecessary step for intermodal porting. The number of required customer validation fields should be minimized, similar to what the wireless industry has done for wireless-wireless ports. With respect to forms and format, the basic forms and LNP intercarrier communication codes should be standardized. These include the forms for Local Service Requests (“LSRs”) and Firm Order Commitments (“FOCs”), as well as the reason codes used. The Commission also should specify a reasonable set of minimum operating hours for processing port requests. Finally, the Commission should ensure a streamlined and customer-friendly porting process by establishing the unconditional ten-digit trigger process as the default methodology for wireline-to-wireless porting.<sup>19</sup>

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<sup>19</sup> The ten-digit trigger eliminates the need for a “managed” port process where the wireline carrier is required to schedule resources to perform the port at a precise time. *See, e.g.*, WNPO Status Report to NANC, July 15, 2003 ([www.nanc-chair.org/docs/nowg/July03\\_WNPO\\_Report.doc](http://www.nanc-chair.org/docs/nowg/July03_WNPO_Report.doc)).

## **CONCLUSION**

The Commission's resolve to implement intermodal LNP holds the promise of bringing true competition, for the first time, to residential consumers. For this promise to be realized, however, the Commission should take the opportunity of this proceeding to clarify ILECs' traffic routing obligations and establish consumer-friendly intermodal porting obligations.

Respectfully submitted,

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